

SEP 30 2020

AT BALTIMORE  
CLERK, U.S. DISTRICT COURT  
DISTRICT OF MARYLAND

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND

BY

DEPUTY

UNITED STATES

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v.

Criminal No. JKB-20-0268

WESLEY CLASH

Defendant

MEMORANDUM IN SUPPORT OF RELEASE

Mr. Wesley Clash, through undersigned counsel, hereby submits this memorandum in support of his motion for release pursuant to 18 U.S.C. § 3142. Mr. Clash's detention hearing will be conducted by video on September 30, 2020.

**I. Release with 24-Hour Home Confinement.**

Mr. Clash seeks release with conditions pending trial. Specifically, Mr. Clash requests that he be permitted to reside with his older sister, Monique Clash, and abide by a 24-hour home confinement condition. Monique Clash can accommodate home monitoring at her residence.

Monique Clash was interviewed by pretrial services. Pretrial services determined she is a suitable third party custodian.

**II. Risk of Severe Illness from COVID-19.**

Mr. Clash was detained at his initial appearance on September 23, 2020, pending the outcome of his detention hearing. Due to time constraints, undersigned counsel is unable to obtain a full set of records pertaining to Mr. Clash's medical history. However, undersigned counsel confirmed that Mr. Clash suffers from asthma, which both he and his mother have managed since Mr. Clash was young. *See Exhibit 1, Letter from Ms. Leona Banks.*

Prior to his arrest, Mr. Clash treated his asthma using an Albuterol HFA (PROAIR) inhaler. *See* Image 1. The Albuterol inhaler is used by Mr. Clash as a rescue inhaler when suffering active symptoms of asthma. Additionally, Mr. Clash uses the Flovent HFA inhaler to prevent asthma flare-ups and attacks. *See* Image 2. Mr. Clash's asthma condition is also documented in the medical order submitted to this Court. Moreover, upon his arrival at the Chesapeake Detention Facility, (CDF), Mr. Clash was treated and provided medication for his asthma condition.

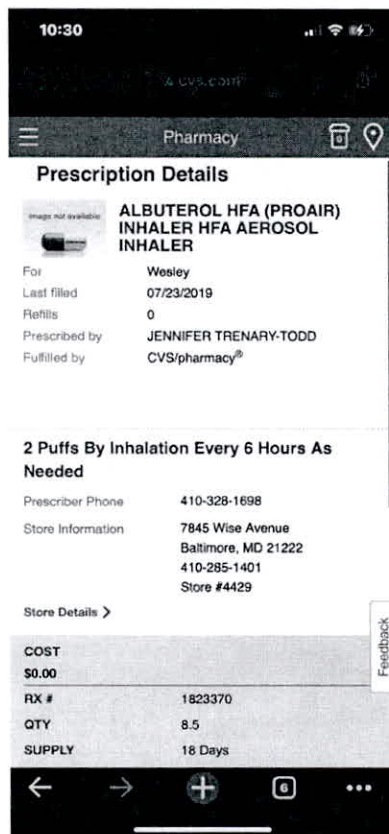


Image 1: Albuterol Prescription

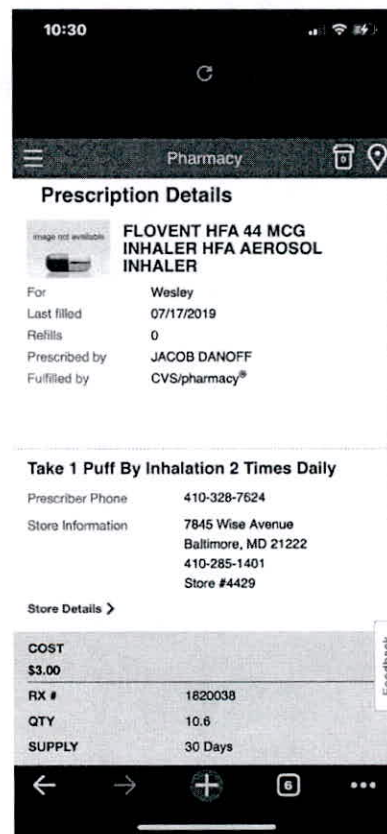


Image 2: Albuterol Prescription

Per the CDC, Mr. Clash could be at increased risk for severe illness from COVID-19 due to his asthma diagnosis. *See* <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical-conditions.html>. The CDC warns: "[i]t is especially important for people at increased risk of severe illness from COVID-19, and those who live with them, to protect themselves from getting COVID-19." *Id.* The CDC unequivocally reports "[t]he best way

to protect oneself” from COVID-19 is to: “[l]imit your interactions with other people as much as possible” and take the precautionary measures designated by the CDC. *See* <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/prevention.html>. Per the CDC, “close contact” should be avoided, which requires maintaining a distance of at least 6 feet from others—a precaution that “is especially important for people who are at higher risk of getting very sick,” due to their medical conditions, like Mr. Clash. *Id.* (emphasis added). The CDC also reports frequently touched surfaces including tables, countertops, desks, phones, keyboards, toilets, faucets, and sinks should be cleaned and disinfected daily and face coverings in “public settings” should be worn at all times to protect from COVID-19 transmission. *Id.* Following these precautions is difficult and at times impossible for detained individuals.

Within the first seven days of Mr. Clash’s pre-trial detention, two people in his housing unit have tested positive for COVID-19. Although measures can be taken to minimize the spread of COVID-19 at CDF, it is inevitable given the number of individuals detained and the number of employees coming and going from the facility that Mr. Clash will continue to be exposed to the COVID-19 while detained pretrial.

As will be discussed below, Mr. Clash has two young children depending on him for many years to come. Therefore, his health is of the utmost importance for both his and their sake.

### **III. Mr. Clash Has Great Incentive to Abide by 24-hour Home Confinement.**

Mr. Clash acknowledges that the charges against him are serious. Mr. Clash also acknowledges that he is facing a significant period of incarceration if he is convicted at trial. However, Mr. Clash’s greatest hope is that he is released pending the outcome of his trial.

Mr. Clash was arrested without warning or notice by federal agents on September 22, 2020. Neither he, nor his family, were able to prepare for his departure from their lives. For the reasons



summarized below, Mr. Clash's detention at this particular juncture could have devastating consequences and an irreversible impact on the lives of his children. Therefore, his release pretrial is of the utmost importance. Mr. Clash has every incentive to abide by all conditions placed upon him. He understands what is at stake in this matter and he will not engage in any conduct that would place the community in any kind of danger.

*A. Mr. Clash recently became a single father.*

Mr. Clash's pretrial release is key to the emotional and mental health of his middle son, 10 year-old Ta'Kai Clash. *See* Ex. 1. Ta'Kai's mother recently passed away in March of 2020. Ta'Kai is suffering immensely. Mr. Clash attends counseling and therapy sessions with Ta'Kai through the Kennedy Krieger Institute to help Ta'Kai recover from the loss of his mother. Additionally, Ta'Kai is struggling to cope with the loss of other family members, the loss of his social network at school, and the loss of any sense of community as a result of the COVID-19 pandemic—all of which are occurring simultaneously in this 10-year-old boy's life. *Id.* The impact of these losses has caused young Ta'kai to fall into a state of depression and emotional suffering to an extent that necessitates processional, therapeutic treatment. Ex. 1.

Ta'Kai is currently living with his grandmother, Ms. Banks, who is in her 70s. *Id.* On top of managing Ta'kai's mental health, Ms. Banks struggles to assist Ta'Kai with his online learning. Ms. Banks, relies on Mr. Clash to ensure Ta'Kai is performing academically as required online. However, over the last week of Mr. Clash's detention, Ta'Kai has struggled to manage his schooling without his father. Ta'Kai is suffering academically and Ms. Banks is unsure how long she can keep up with the task of online learning alone.

Ta'kai has not come to terms with the fact that his father is not returning to be with him. He asks about his father every day. Ex. 1. He cannot comprehend the idea that he may be losing another critical person in his life during such a painful and traumatic time.

Both Mr. Clash and his mother, Ms. Banks, fear the loss of Mr. Clash's presence at this particular moment time will prove too much to bear for young Ta'kai.

*B. Mr. Clash's oldest son is just starting college.*

Mr. Clash's oldest son, Wesley Clash, is also at a crossroad in his life. Mr. Clash and his family are praying that young Wesley can stay the course.

Wesley just left for college on a wrestling scholarship. He is currently attending his first year of college at Indian Hills Community College in Iowa. See <http://www.indianhills.edu/>. Going away to college was not an easy step for young Wesley to take. But, young Wesley and his family want nothing more than for him to succeed in his academics, excel in wrestling, and have the opportunities his father never had.

Mr. Clash's fear is that his incarceration during Wesley's *first* months of college will be the devastating blow that derails his son's educational goals. Mr. Clash does not want to throw his son off course in this great academic journey. Mr. Clash wants his son's sole focus to be his academics and wrestling. However, Mr. Clash fears that the pain his family is suffering and the void left due to Mr. Clash's pretrial detention, will cause young Wesley to want to return home from school. Mr. Clash fears his son will feel obligated to come back to Baltimore to fill his father's shoes, especially when it comes to the needs of his brother Ta'Kai.

*C. Mr. Clash's three-year-old son Amaan.*

Mr. Clash also has a three-year-old son named Amaan. Mr. Clash and his mother, Ms. Banks, have full custody of Amaan. Mr. Clash knows that his mother is unable to provide full-

time care to both his 3-year-old son and 10-year-old son while both are home simultaneously. The reality is both of his sons require more care than his 70-year-old mother can provide alone.

As a toddler, Amaan needs a tremendous amount of attention and physical activity. Ms. Banks is advancing in age and she struggles to maintain her own health. Although she is able to care for little Amaan, caring for him alone is not what she has planned or prepared for. Simply put, his mother is overwhelmed and needs Mr. Clash's support to get through this critical juncture in his three sons' lives.

*D. Mr. Clash's pretrial release allows him the opportunity to support his sons during this critical juncture and establish a plan for their care long term.*

Mr. Clash acknowledges that he has made poor decisions in his life. Mr. Clash is keenly aware of the road that may lay ahead. However, Mr. Clash's release on 24-hour home confinement strikes the proper balance of protecting the general community from any perceived risk of danger and the undeniably real threat to his children's wellbeing if he is detained.

While released on 24-hour home confinement, Mr. Clash will have the ability to care for and support his sons during this difficult transition in their lives. He can assist his son Ta'kai with his online learning and support Ta'kai emotionally as he continues to obtain psychological treatment. *Importantly, Mr. Clash will be able to work with professionals to prepare Ta'kai for the possibility that Mr. Clash will be incarcerated in the future.* Mr. Clash can work with professionals to take every step possible to prevent Mr. Clash's potential incarceration from becoming a final, devastating blow that Ta'kai cannot recover from.

Mr. Clash's pretrial release will also allow his oldest son to focus on a successful, first year in college. The transition of going away to college is difficult, especially when all the teenager knows is his family and hometown of Baltimore. Like Mr. Clash, his son's entire world is in Baltimore. He has not traveled, gone away to camps or long distance learning programs. Yet, Mr.



Clash's son Wesley took the huge leap of faith to go away to Iowa for school—a leap that was anything but easy.

During his pre-trial release, Mr. Clash will support Wesley from a distance and do everything necessary so that young Wesley does not feel burdened or obligated to fill the void potentially left by his father in the future. Mr. Clash knows Wesley has the opportunity to break through barriers that Mr. Clash never could. Mr. Clash wants nothing more than for Wesley to be able to finish his first year of college successfully and find the confidence and motivation needed to continue on in his education even if his father is incarcerated in the future.

Mr. Clash's children mean everything to him. *See Photos 1-4.* More importantly, for Ta'kai and Amaan, Mr. Clash is their everything.



Photo 1: Mr. Clash, Wesley, and Ta'Kai



Photo 2: Mr. Clash, Wesley, and Ta'Kai



Photo 3: Mr. Clash and Amaan



Photo 4: Mr. Clash and Amaan

### CONCLUSION

Mr. Clash will not risk violating the conditions of his release. The impact of a violation would be too great on his children, his mother and his family at this critical juncture in their lives. For these reasons, Mr. Clash begs this Court to release him with 24-hour home confinement and monitoring pending his trial.

Respectfully submitted,

JAMES WYDA  
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for the District of Maryland

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